

Remarks

Applicants respectfully request reconsideration of the present case in view of the above amendments and the following remarks.

Claims 15 and 17-21 have been canceled. Claim 1 has been amended. Claims 1, 6, 7 and 10-12 are currently pending. No new matter has been inserted. Support for the amendment of claim 1 can be found at least in Figures 2, 4, 6 and 7, and in the specification at page 6, lines 10-12.

35 USC § 103

Claims 1, 6-7, 10-12 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Etesse (EP 06308221) and Pomeranz (USPN 1,649,976). Applicants respectfully traverse this rejection.

Etesse discloses flexible pouches and methods for making the same. However, Etesse fails to disclose or suggest “a reinforcing structure comprising one layer of additional material, the reinforcing structure attached to the bag adjacent to the handle, the reinforcing structure having a vertical length less than the first and second sidewalls, the reinforcing structure having a horizontal length less than the first and second sidewalls”, as required by claim 1. Further, Etesse fails to disclose or suggest that “the first and second sidewalls are heat sealed to one another in a heat-sealed region surrounding the handle”, as required by claim 1.

Pomeranz discloses a bag “designed for use by bathers in carrying bathing suits and like articles”. See col. 1, lines 4-5. Pomeranz (newly cited) fails to cure the deficiencies of Etesse for various reasons. First, Applicants assert that the Examiner has failed to establish a *prima facie* case of obviousness. Applicants note that in order to establish a *prima facie* case of obviousness, that there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine the reference teachings without hindsight to the claimed invention. See *In re Vaeck*, 20 USPQ2d (Fed. Cir. 1991); MPEP § 2143 *et seq.* In this case, there is no motivation to combine the disclosure of Pomeranz with the disclosure of Etesse. Etesse discloses a flexible pouch for a product that can be poured out with features that aid in smooth

dispensing of the product and that facilitate the pouring. In sharp contrast, Pomeranz relates to “a bag which is particularly designed for use by bathers in carrying bathing suits and like articles”. See Pomeranz, col. 1, lines 3-5. Thus, the bag of Pomeranz is not designed for pouring of a product and is very distinct from the pouch of Etesse. Because the bag of Pomeranz is very different from the pouch of Etesse, one of skill in the art would not have a motivation to selectively combine features of Etesse with the disclosure Pomeranz. Therefore, a *prima facie* case of obviousness has not been established.


Second, Pomeranz simply fails to disclose or suggest features of the claims that are also not disclosed or suggested by Etesse. Specifically, Pomeranz fails to disclose or suggest “the reinforcing structure having a horizontal length less than the first and second sidewalls”, as required by claim 1. Figs. 1 and 2 of Pomeranz show that the “stiffening member” 20 is horizontally coterminous with the sidewalls. In contrast, the invention of claim 1 requires a horizontal length less than the first and second sidewalls. In addition, Pomeranz fails to disclose or suggest that “the first and second sidewalls are heat sealed to one another in a heat-sealed region surrounding the handle”, as required by claim 1. Therefore, the combination of Etesse and Pomeranz fails to render claim 1 obvious. As claims 6-7 and 10-12 are dependent on claim 1, they are also not rendered obvious. Claim 15 has been canceled. For at least these reasons, Applicants respectfully request that this rejection be withdrawn.

Summary

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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Date



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